

(Caption of Case)

Application of Duke Energy Carolinas, LLC for
Adjustments in Electric Rate Schedules and Tariffs
and Request for an Accounting Order

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

DOCKET

NUMBER: 2018 - 319 - E

(Please type or print)

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DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition☐ Request for item to be placed on Commission's Agenda expeditiously☐ Other:

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)			
<input checked="" type="checkbox"/> Electric	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Letter	<input type="checkbox"/> Request	
<input type="checkbox"/> Electric/Gas	<input type="checkbox"/> Agreement	<input type="checkbox"/> Memorandum	<input type="checkbox"/> Request for Certification	
<input type="checkbox"/> Electric/Telecommunications	<input type="checkbox"/> Answer	<input type="checkbox"/> Motion	<input type="checkbox"/> Request for Investigation	
<input type="checkbox"/> Electric/Water	<input type="checkbox"/> Appellate Review	<input type="checkbox"/> Objection	<input type="checkbox"/> Resale Agreement	
<input type="checkbox"/> Electric/Water/Telecom.	<input type="checkbox"/> Application	<input type="checkbox"/> Petition	<input type="checkbox"/> Resale Amendment	
<input type="checkbox"/> Electric/Water/Sewer	<input checked="" type="checkbox"/> Brief	<input type="checkbox"/> Petition for Reconsideration	<input type="checkbox"/> Reservation Letter	
<input type="checkbox"/> Gas	<input type="checkbox"/> Certificate	<input type="checkbox"/> Petition for Rulemaking	<input type="checkbox"/> Response	
<input type="checkbox"/> Railroad	<input type="checkbox"/> Comments	<input type="checkbox"/> Petition for Rule to Show Cause	<input type="checkbox"/> Response to Discovery	
<input type="checkbox"/> Sewer	<input type="checkbox"/> Complaint	<input type="checkbox"/> Petition to Intervene	<input type="checkbox"/> Return to Petition	
<input type="checkbox"/> Telecommunications	<input type="checkbox"/> Consent Order	<input type="checkbox"/> Petition to Intervene Out of Time	<input type="checkbox"/> Stipulation	
<input type="checkbox"/> Transportation	<input type="checkbox"/> Discovery	<input type="checkbox"/> Prefiled Testimony	<input type="checkbox"/> Subpoena	
<input type="checkbox"/> Water	<input type="checkbox"/> Exhibit	<input type="checkbox"/> Promotion	<input type="checkbox"/> Tariff	
<input type="checkbox"/> Water/Sewer	<input type="checkbox"/> Expedited Consideration	<input type="checkbox"/> Proposed Order	<input type="checkbox"/> Other: _____	
<input type="checkbox"/> Administrative Matter	<input type="checkbox"/> Interconnection Agreement	<input type="checkbox"/> Protest		
<input type="checkbox"/> Other: _____	<input type="checkbox"/> Interconnection Amendment	<input type="checkbox"/> Publisher's Affidavit		
	<input type="checkbox"/> Late-Filed Exhibit	<input type="checkbox"/> Report		

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April 18, 2019

Via SCPSC E-FILING DMS

The Honorable Jocelyn G. Boyd
Chief Clerk/Administrator
Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, SC 29210

**Re: Application of Duke Energy Carolinas, LLC for Adjustments in Electric Rate
Schedules and Tariffs and Request for an Accounting Order;
Docket No. 2018-319-E**

Dear Ms. Boyd:

Please find attached for electronic filing with the South Carolina Public Service Commission ("Commission"), the Post-Hearing Brief of Walmart Inc. ("Walmart"), in the above-referenced case. By copy of this letter, I am serving all parties of record via Electronic Mail.

Please contact us if you have any questions concerning this filing.

Sincerely,

SPILMAN THOMAS & BATTLE, PLLC

By



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SUE/sds
Attachments
c: Certificate of Service

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2018-319-E

IN RE: Application of Duke Energy Carolinas, LLC for Adjustments in Electric Rate Schedules and Tariffs and Request for an Accounting Order))))	POST HEARING BRIEF OF WALMART INC.
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Walmart Inc. ("Walmart"), by its attorneys, respectfully submits its Post-Hearing Brief in the above matter and requests that the Public Service Commission of South Carolina ("Commission") reject the 10.5 percent return on equity ("ROE") proposed by Duke Energy Carolinas, LLC ("DEC" or "Company") as not supported by "reliable, probative and substantial evidence"¹ as required by South Carolina law, and instead award DEC an ROE that is no higher than 9.76 percent, the average ROE awarded nationally for vertically integrated utilities from 2016 through the present.² In support of its Post-Hearing Brief, Walmart submits as follows:

FACTUAL BACKGROUND

On October 8, 2018, DEC filed Notice of its intent to file an Application for Adjustment in Electric Rate Schedules and Tariffs ("Application"). Subsequently, on November 8, 2018, DEC filed its Application seeking an increase in its electric rates of approximately \$168 million, equating to approximately a 10 percent increase in rates.³ In its Application, DEC noted that its expert witness, Robert Hevert, recommended an ROE of 10.75 percent; however, as a "rate

¹ S.C. Code Ann. § 58-27-870(G).

² Direct Testimony of Gregory W. Tillman ("Tillman Direct"), p. 15, lines 8-14.

³ Application, p. 4, ¶ 7.

mitigation measure," the Company was proposing to set rates based on an ROE of 10.5 percent,⁴ which would be a 30 basis point increase over its currently authorized ROE of 10.20 percent.⁵

On November 27, 2018, Walmart filed its Petition to Intervene, which was granted via Commission Order dated December 19, 2018. On February 26, 2019, Walmart filed the Direct Testimony and Exhibits of Gregory W. Tillman, Senior Manager, Energy Regulatory Analysis for Walmart. Mr. Tillman's testimony provided information regarding ROEs awarded nationally since 2016.⁶ That data showed that out of the 111 reported utility rate case ROEs authorized by state regulatory commissions to investor-owned electric utilities from 2016 through approximately February 2019, the average ROE was 9.60 percent.⁷ When that data is limited to vertically integrated utilities – like DEC – the average authorized ROE since 2016 is 9.76 percent.⁸ In advance of the hearing in this manner, the parties agreed to waive cross-examination of Mr. Tillman, and his Direct Testimony was subsequently stipulated into the record as if given orally at the hearing. A Verification of Mr. Tillman's Direct Testimony was filed on March 19, 2019.

On March 25, 2019, the South Carolina Office of Regulatory Staff ("ORS") filed a letter with the Commission regarding a proposed compromise or "Plan B" regarding the ROE in this proceeding.⁹ Although ORS witness David Parcell's analysis found a cost of equity range of 9.10 to 9.50 percent and proposed an ROE of 9.30 percent,¹⁰ the letter filed by ORS indicated that it would accept an ROE of 9.76 percent as supported by Mr. Tillman's testimony.¹¹

⁴ Application, p. 13, ¶ 24; *see also* Direct Testimony of John L. Sullivan, III ("Sullivan Direct"), p. 6, line 22 to p. 7, line 1; *see also* Direct Testimony of Robert B. Hevert, p. 4, line 15 to p. 5, line 1.

⁵ Application, p. 28, ¶ 50.

⁶ Tillman Direct, p. 14, line 17 to p. 15, line 21.

⁷ *Id.*, p. 15, lines 3-7.

⁸ *Id.*, p. 15, lines 8-14.

⁹ *See* Hearing Exhibit ("Ex.") 31.

¹⁰ Direct Testimony of David C. Parcell ("Parcell Direct"), p. 4, lines 7-10.

¹¹ *See* Hearing Ex. 31.

ROE expert on behalf of a utility, not a single utility commission adopted his recommended ROE.¹⁵ In only two of those 35 cases was an ROE selected that was even within Mr. Hevert's proposed range, and in both those instances, the ROE ultimately selected was at the very lowest end of his range.¹⁶ Neither DEC nor Mr. Hevert have offered any persuasive reason why this Commission should be the first such utility commission to accept the ROE recommended by DEC witness Hevert.

In fact, in a litigated case, the average delta between Mr. Hevert's recommended ROE and the ROE ultimately adopted is approximately 86.7 basis points.¹⁷ That average delta increases to 94.8 basis points when excluding litigated cases involving distribution only utilities.¹⁸ Were that same delta to apply here, Mr. Hevert's recommended ROE would decrease from 10.75 percent to approximately 9.80 percent, or only four basis points from the national average for vertically integrated utilities. If that delta is applied to the 10.5 percent ROE requested by DEC, the ROE would be 9.55 percent. In short, this evidence supports an ROE of no more than 9.76 percent being awarded to DEC in this case.

2. The record is devoid of evidence to support awarding DEC one of the highest ROEs at any time since 2016.

It is important to place the ROE requested here in context. DEC witness Hevert believes that the "appropriate" ROE for DEC is 10.75 percent.¹⁹ Were the Commission to adopt this ROE, it would be the second highest ROE awarded in the United States *at any time* since 2016.²⁰ Even were this Commission to accept the 10.50 percent offered by DEC as a supposed "rate mitigation

¹⁵ Hearing Ex. 53.

¹⁶ See Hearing Ex. 53.

¹⁷ Hearing Ex. 54.

¹⁸ See Hearing Tr., Vol. 8, p. 1812, line 17 to p. 1814, line 22.

¹⁹ Hearing Tr., Vol. 8, p. 1796, lines 8-12.

²⁰ Hearing Tr., Vol. 8, p. 1821, lines 3-9. Only Alaska Electric Power Company has been awarded a higher ROE at 11.95 percent.

measure," such an ROE would be the third highest ROE awarded since 2016, surpassed only by Alaska Electric Power Company and Florida Power & Light Company.²¹ Even the very lowest end of Mr. Hevert's range – 10.25 percent – would constitute one of the top seven highest ROEs awarded since 2016.

The entirety of DEC's proposed range constitutes an increase from the Company's currently authorized 10.20 percent.²² The Company has produced *no persuasive evidence* to warrant an increased ROE of any amount, let alone the range proposed by Mr. Hevert. DEC has not shown that it currently has any difficulty accessing the capital markets. Nor could it make such an argument where it has acknowledged that it has had no impediment in accessing the capital markets following its agreement to accept a 9.90 percent ROE in its 2018 North Carolina rate case.²³ The law of this State requires reliable, probative, and substantial evidence to support the ROE set in this proceeding, but DEC has failed to carry its burden on this point. In fact, based on DEC's agreement to a 9.90 percent ROE in North Carolina, this Commission should deem that 9.90 percent is the absolute ceiling on the ROE to be awarded in this proceeding.

3. The Virginia State Corporation Commission has expressly rejected the modeling relied upon by DEC in this matter.

To arrive at his recommended ROE, DEC's ROE witness utilizes a variety of models, including the Constant Growth Discounted Cash Flow Model ("Constant Growth DCF"), the Multi-Stage Discounted Cash Flow Model ("Multi-Stage DCF"), the Capital Asset Pricing Model ("CAPM"), and the Bond Yield Risk Premium Analysis.²⁴ DEC witness Hevert has used these same models and relied on the same analytical inputs in prior cases in other jurisdictions. In fact,

²¹ See Tillman Direct at Ex. GWT-4.

²² Application, p. 28, ¶ 50.

²³ Hearing Tr., Vol. 4, p. 699, lines 12-18; Hearing Tr., Vol. 8, p. 1836, lines 4-14.

²⁴ See Hearing Tr., Vol. 8, p. 1797, line 18 to p. 1798, line 2.

the Virginia State Corporation Commission ("Virginia SCC") has expressly criticized the very analysis that was used in this case.

For example, in the last proceeding in Virginia where Mr. Hevert testified on behalf of Virginia Electric and Power Company, *i.e.*, Dominion, the Commission stated that it "further finds that Dominion's proposed cost of equity of 10.25% to 10.75% represents neither the actual cost of equity in the marketplace nor a reasonable ROE for the Company."²⁵ With respect to witness Hevert's DCF analysis, the Virginia SCC noted that it improperly relied on "only earnings per share as the measure of long-term growth," resulting in "unreasonably high growth rates that upwardly skew results."²⁶ Notwithstanding this criticism by the Virginia SCC, witness Hevert's Multi-Stage DCF and Constant Growth DCF analyses in this case continue to rely solely on the projection on earnings per share.²⁷

The Virginia SCC likewise noted that Mr. Hevert's CAPM analysis and Bond Yield Risk Premium Analysis were both flawed due to their reliance on projected 30-year Treasury bond yields, noting that the Virginia SCC has "explicitly rejected the use of such projected interest rates in prior cases, stating that inclusion of these projected rates inflates the results of the utility's risk premium analysis."²⁸ The Virginia SCC further noted that the CAPM, like the DCF modeling, relied on "earnings per share as the measure of long-term growth to develop the risk premium component" of the analysis. Again, despite the criticisms noted by the Virginia SCC of the CAPM

²⁵ Hearing Ex. 28, p. 4.

²⁶ *Id.*, pp. 4-5.

²⁷ Hearing Tr., Vol. 8, p. 1797, lines 3-6; *see also* Direct Testimony of Robert B. Hevert ("Hevert Direct"), p. 21, lines 14-16 (stating that Earnings Per Share ("EPS") "represents the appropriate measure of long-term growth"); p. 29, lines 5-18 (stating that the Multi-Stage DCF Model relies on "the projected earnings per share and the expected dividend payout ratio").

²⁸ Hearing Ex. 28, p. 5

and Bond Yield Risk Premium Analysis, witness Hevert used the *exact same modeling* in this proceeding.²⁹

As the Virginia SCC noted, Mr. Hevert's analysis produces unreliable, upwardly biased results that should be rejected in setting the ROE. This Commission also should find that DEC has failed to produce sufficiently reliable evidence in support of either its requested ROE of 10.50 percent or its witness's ROE range of 10.25 to 11.00 percent.

4. Even were this Commission to accept Mr. Hevert's Models, they do not support DEC's requested ROE.

As noted above, DEC's ROE witness used four different models to arrive at his proposed ROE: the Constant Growth DCF, the Multi-Stage DCF, the CAPM, and the Bond Yield Plus Risk Premium Analysis. Although his initial results were set forth in his Direct Testimony, Mr. Hevert updated his results in his Rebuttal Testimony.³⁰ Rather than supporting DEC's requested ROE, these results actually support adoption of an ROE of 9.76 percent.

Neither the Multi-Stage DCF nor the Bond Yield Plus Risk Premium Analysis produce results anywhere in the recommended cost of equity range proposed by DEC's ROE witness.³¹ The Constant Growth DCF and the CAPM based on the Average Bloomberg Beta Coefficient only produce results on the low end of the range, but are significantly below witness Hevert's recommended ROE of 10.75 percent (or the Company's "rate mitigation measure" ROE of 10.50 percent). The *only* modeling that produces a range of results that even includes the range proposed by Mr. Hevert are the CAPM results that rely on the Average Value Line Beta Coefficient.³² Those same results, however, also support a 9.76 percent ROE.

²⁹ Hearing Tr., Vol. 8, p. 1798, lines 1-15 (noting that earnings per share is an input in calculating the market risk premium of Mr. Hevert's CAPM analysis); p. 1803, lines 4-24 (Mr. Hevert noting that his analysis does rely on projected Treasury bond yields).

³⁰ See Rebuttal Testimony of Robert B. Hevert, p. 100.

³¹ *Id.*

³² *Id.*

A 9.76 percent ROE is within the range of Mr. Hevert's Constant Growth DCF and the CAPM, and it is approximately at the mid-point of the results produced by his Multi-Stage DCF and Bond Yield Plus Risk Premium Analysis. A 9.76 percent ROE is further supported by all the other undisputed evidence in this case. It is in proximity to the 9.90 percent ROE DEC obtained in settlement in its 2018 North Carolina Rate Case and to the data set forth in Hearing Exhibits 53 and 54. Finally, an ROE of 9.76 percent has been accepted by ORS as a reasonable compromise in this matter.

CONCLUSION

For all the reasons set forth above, Walmart Inc. respectfully requests that this Commission reject the 10.5 percent return on equity requested by Duke Energy Carolinas, LLC, and instead award Duke Energy Carolinas, LLC, a return on equity of no more than 9.76 percent.

Respectfully submitted,

SPILMAN THOMAS & BATTLE, PLLC

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Dated: April 18, 2019

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2018-319-E

IN RE: Application of Duke Energy)
Carolinas, LLC for Adjustments in Electric)
Rate Schedules and Tariffs and Request for an)
Accounting Order)

CERTIFICATE OF SERVICE

I hereby certify that I have this day served one (1) copy of the foregoing document upon the following parties to this proceeding via Electronic Mail:

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